IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5158 OF 2006

Vasantdada Sugar Institute
& Anr. ..Petitioners.
Vs.
Dr.(Miss) Jyoti Dattatray Mane ..Respondent.

Ms.P.P.Tendulkar i/b M.S.Karnik, advs. for the Petitioners.

Mr.V.G.Mujumdar, adv. for the Respondent.

CORAM : J.H.BHATIA, J.
DATE : AUGUST 31, 2007.

P.C.

1. Heard the learned counsel for the Parties.

2. The petitioner no.1 is a registered public charitable trust and also a co-operative society. It has been established for the purpose of research, other scientific work and investigation in connection with the trade or industry related to sugar-cane/sugar or other sugar bearing plants, sugar bye-products and trade and industries allied therewith. Basically all these activities are for the benefit of sugar industry, sugar-cane growers and those related to the industry and trade of sugar. The respondent was appointed in service of the petitioner on 19-6-1984 as a scientist and since 12th December, 2000 her designation was Senior Scientist. By letter dated 31st May, 2005, the

petitioner no.2, who is the director general of petitioner no.1, communicated to the respondent decision of the governing council or the management to terminate the services of the respondent as per the terms of the contract and she was informed that her services would be liable to be terminated after three months from the date of receipt of the said letter. The respondent filed a suit for perpetual injunction seeking declaration that the said notice of termination is bad in law and also by an application, Exhibit 5, she sought temporary injunction restraining the petitioners from acting on the said letter about termination of the service. The petitioners/defendants contested the said application and contended that as per Clause (3) of the terms and conditions of her appointment letter dated 19th June, 1984, her services are liable to be terminated by giving notice of three months. It was also contended that on evaluation of the work done by her, it was found that output of her work could not be utilised for sugar industry and her research outputs had not contributed to income generation for the institute. Therefore, management on the basis of reports submitted by the experts concluded that the research work undertaken by the plaintiff/respondent had not proved to be relevant to the sugar industry in the interest of sugar-cane farmers. After hearing the parties, the learned IVth

Joint Civil Judge, Senior Division, Pune observed that in view of the terms of the contract of the service, she was not entitled to the relief of the reinstatement as the dispute pertains to the contract of the employment between the master and servant. With these observations, application came to be rejected. Respondent/plaintiff preferred Miscellaneous Civil Appeal No.25 of 2006 against rejection of her application for injunction. That appeal was allowed by the learned 8th Adhoc Additional District Judge, Pune and the learned Additional District Judge came to conclusion that the report of the relevant committee was not placed on record by the respondents/defendants whereby they had proceeded to terminate the services of the plaintiff/appellant. The learned Additional District Judge also found that as per Clause (2) of rules, all the service rules are applicable to the employees in the employment of the petitioners from 1st July, 1985 and no ground was made out for termination of service of the plaintiff. In the result, he allowed the appeal.

3. The learned counsel for the petitioner/defendant relied upon Clause (3) of the appointment letter dated 19th June, 1984, which shows that within the probation period, services could be terminated by one month’s notice but after confirmation, services could be

terminated by three months notice. On the other hand, the learned counsel for the plaintiff/respondent contends that Service Rules of 1985 would prevail over the appointment letter.

4. It appears that after her appointment in the year 1984, the petitioner institute had framed service rules for the employees and these service rules came into force on 1st July, 1985. Rule 2 reveals that these rules shall apply to all the employees, who were in employment of the institute as on 1st July, 1985 and to the employees, who may be employed in the service of the institute in future. These rules make explicitly clear that the rules shall form and constitute part and parcel of the terms of the appointment of employees of the institute. In view of this, the respondent, who was in the employment of the institute when these rules came into force would be governed by these rules. Rule 6 provides for termination of the service for the acts or omissions, which would amount to misconduct. Rule 6(2) provides for punishment, which may be imposed on a employee, who is found guilty of misconduct. These punishments include discharge or dismissal from service. Rules also provide that no order of dismissal from service shall be made except after holding an enquiry against the employee concerned in respect of the alleged misconduct. Taking into consideration the

rules framed by the respondent, prima-facie it appears that the plaintiff/respondent is also governed by these rules and in spite of Clause 3 of letter of appointment, she will have to be governed by these rules. Admittedly, no allegation of misconduct was levelled against her nor any enquiry was held against her. Prima-facie it appears that her services are protected under the rules framed by the petitioner. Taking into consideration these circumstances, I find no fault with the impugned order passed by the learned Additional District Judge.

4. In the result, petition stands dismissed summarily.

[J.H.BHATIA, J.]